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Message Text

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AMEMBASSY PRAGUE
AMEMBASSY SOFIA
AMEMBASSY WARSAW

C O N F I D E N T I A L VIENNA 5299

E.O. 11652; GDS
TAGS: ETRD, COMECON, UR, US
SUBJECT: REPORTED INTRODUCTION OF STANDARD COMECON CONTRACT
FOR COMPUTER IMPORTS

REF: MOSCOW 8716

1. WITHOUT MENTIONING HEWLETT-PACKARD OR DATA GENERAL, WE APPROACHED IBM, CONTROL DATA, AND DATA PRODUCTS OFFICIALS IN VIENNA. NONE ARE AWARE OF COMECON STANDARD FORM CONTRACT MENTIONED REFTEL.

2. IBM OPERATIONS DIRECTOR FOR EE COUNTRIES (NOT USSR) SAYS IBM HAS BEEN SUCCESSFUL IN ALL EE COUNTRIES EXCEPT ROMANIA IN USING ITS OWN STANDARD FORM CONTRACT WHICH IBM NEGOTIATED DURING PAST YEAR WITH FOREIGN TRADE ORGANIZATIONS, NATIONAL BANKS AND MINISTRIES OF FOREIGN TRADE IN RESPECTIVE COUNTRIES. CONTRACT TERMS NOT MENTIONED WHEN IBM HELD DISCUSSIONS WITH POLISH OFFICIALS LAST WEEK AT POZNAN FAIR NOR BY HUNGARIANS DURING MEETINGS HELD DURING BUDAPEST FAIR. IN ROMANIA ELECT-
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RONUM FTO STILL ATTEMPTS TO IMPOSE SOME AMENDMENTS, MODIFI-

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CATIONS OR ADDENDA TO EACH CONTRACT WHEN SALES OF IBM HARD-
WARE OR SOFTWARE ARE BEING NEGOTIATED. IBM HAS THUS FAR
RESISTED SUCH CHANGES BUT ITS SALES IN ROMANIA ARE NOT LARGE.
IBM OFFICIAL EXPRESSED VIEW THAT RELATIVELY LOW LEVEL OF IBM
SALES IN ROMANIA NOT NECESSARILY RELATED TO ITS REFUSAL TO
ACCEPT CHANGES IN CONTRACT PROPOSED BY ROMANIANS.

3. CONTROL DATA CORP. SAYS IT IS STILL USING "OLD FIAT
TRUCK CONTRACT" IN USSR WITHOUT ANY CHANGES HAVING BEEN PRO-
POSED BY SOVIETS SINCE FIRST CONTROL DATA CONTRACT WAS NEGOTI-
ATED. CONTROL DATA RECENTLY NEGOTIATED A CONTRACT IN CZECHOS-
LOVAKIA WHICH IS BASICALLY CONTROL DATA'S STANDARD FORM
CONTRACT WITH MINOR MODIFICATIONS ADAPTED TO CZECH SITUATION.

4. DATA PRODUCTS CORP. HAS A DIFFERENT CONTRACT IN EACH OF THE
EE COUNTRIES AND BELIEVE CONTRARY TO IBM IT NOT POSSIBLE TO
USE ONE STANDARD CONTRACT IN EE COUNTRIES BECAUSE OF DIFFERENCES
IN EACH EE COUNTRY WITH RESPECT TO PRICE, MEANS OF SHIPMENT,
DIFFERING PAYMENT TERMS, AS WELL AS DIFFERENCES IN
REQUIRED DOCUMENTATION, FORCE MAJEURE AND APPLICABLE LAW. FOR
EXAMPLE, SOME EE COUNTRIES HAVE DOUBLE TAXATION AGREEMENTS
WITH US WHICH REQUIRE DIFFERENT CONTRACT TERMS IN LICENSING
AGREEMENTS THAN IN COUNTRIES WHERE NO DOUBLE TAXATION AGREEMENTS
EXIST. ALSO ROMANIANS WILL ACCEPT FRANCE AND PARIS BUT NEVER
SWITZERLAND AND ZURICH OR AUSTRIA AND VIENNA FOR APPLICABLE
LAW AND ARBITRATION. BULGARIANS ON OTHER HAND WILL ONLY ACCEPT
ZURICH AS ARBITRATION SITE OUTSIDE BULGARIA.

5. WE LIMITED OUR INQUIRIES TO ABOVE THREE COMPANIES. ALL
THREE ASKED FOR COPY OF PROPOSED NEW COMECON STANDARD FORM
CONTRACT, IF AVAILABLE. IBM OFFICIAL SAID HE WOULD ASK IBM
GOVERNMENT RELATIONS OFFICE IN WASHINGTON TO INQUIRE FURTHER
IN DEPARTMENT OF COMMERCE. HUMES

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